

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

KATHLEEN TAYLOR

(b) County of Residence of First Listed Plaintiff: MONTGOMERY
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number):
BRIAN J. SMITH
BRIAN J. SMITH & ASSOCIATES, PC
140 F. BUTLER AVENUE, PO BOX 387
AMBLER, PA 19002-0387
215-659-8700

DEFENDANTS

PATENAUE & FELIX, A.P.C. AND GREGG L. MORRIS

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 TIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

FAIR DEBT COLLECTION PRACTICES ACT

Brief description of cause:

COLLECTION LETTER VIOLATED FDCPA

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions).

JUDGE

DOCKET NUMBER

DATE

03/11/2013

SIGNATURE OF ATTORNEY OF RECORD

/S/ BRIAN J. SMITH, ESQUIRE

MAR 11 2013

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to a particular calendar.

Address of Plaintiff: 2105 Geoffrey Drive, Willow Grove PA 19090
 Address of Defendant: 4545 Murphy Canon Rd, 3rd FL, San Diego CA 92123
 Place of Accident, Incident or Transaction: 2105 Geoffrey Dr, Willow Grove PA 19090
 (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ IN ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify) EDC PA

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

Brian J. Smith

counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: _____

Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 3/11/13

Brian J. Smith

Attorney-at-Law

68911

Attorney I.D.#

RB

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CASE MANAGEMENT TRACK DESIGNATION FORM**

KATHLEEN TAYLOR

: CIVIL ACTION

v.
PATENAUE & FELIX, A.P.C.
And GREGG L. MORRIS

13**1281**

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

3/11/2013

Date

Brian J. Smith

Attorney-at-law

Plaintiff

Attorney for

215-659-8700

Telephone

215-659-8701

FAX Number

bsmith@lawbjs.com

E-Mail Address

MAR 11 2013

RB

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KATHLEEN TAYLOR
2105 Geoffrey Drive
Willow Grove, PA 19090
Plaintiff
vs.

CIVIL ACTION

NO.

13 1281

PATENAUE & FELIX, A.P.C.
4545 Murphy Canon Road
3rd Floor
San Diego, CA 92123

And

GREGG L. MORRIS
4545 Murphy Canon Road
3rd Floor
San Diego, CA 92123
Defendants.

COMPLAINT

I. INTRODUCTION

1. This is an action for damages brought by a consumer pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692 ("FDCPA").

2. The FDCPA prohibits collectors from engaging in deceptive and unfair practices in the collection of consumer debt.

3. Defendants are subject to strict liability for using collection tactics which violate the provisions of the FDCPA.

II. JURISDICTION

4. Jurisdiction arises under 15 U.S.C. §1692k, actionable through 28 U.S.C. §§1331, 1337.

5. Both Defendants do business in the Eastern District of Pennsylvania.

III. PARTIES

6. Plaintiff Kathleen Taylor is an adult individual residing in Willow Grove, Pennsylvania at the address captioned.

7. Defendant Patenaude & Felix, A.P.C. is a law firm with a regular place of business in San Diego, California and Carneige, Pennsylvania, and a mailing address as captioned.

8. Defendant Gregg Morris ("Morris") is an individual employed as an attorney, debt collector at Patenaude & Felix, A.P.C.

9. Defendants regularly engage in the collection of consumer debts using the mails and telephone.

10. Defendants regularly attempt to collect consumer debts alleged to be due another.

11. Each Defendant is a "debt collector" as that term is contemplated in the FDCPA, 15 U.S.C. §1692a(6).

12. Patenaude & Felix, A.P.C. and Gregg Morris are collectively referred to as "Patenaude."

IV. STATEMENT OF CLAIM

13. On or about March 12, 2012, Patenaude sent Plaintiff a communication in an attempt to collect a consumer debt alleged due. (See Exhibit "A" attached hereto and redacted for privacy per local rule).

14. The letter is purportedly from Gregg L. Morris, Esq. At Patenaude & Felix's San Diego, California location. The letter purports to be signed by Morris.

15. Gregg L. Morris is barred in Pennsylvania, not in California. Morris works in Patenaude & Felix's Carnegie, Pennsylvania location.

16. Upon information and belief, that is not the "signature" of Mr. Morris on the March 12, 2012, letter to Ms. Taylor.

17. The collection letter was not prepared, reviewed, sent nor signed by Mr. Morris, as the letter indicates. The collection notice was prepared by Patenaude & Felix's collection department.

18. The letter deceptively conveys review and involvement by attorney Morris, when he had none.

19. The FDCPA prohibits a debt collector from using any false, deceptive, or misleading representation or means in connection with the collection of any debt, including the false representation that a communication is from an attorney. 15 U.S.C. §§1692e, 1692e(3), 1692e(10).

20. Section 1692e(9) prohibits the sending of any written communications to a consumer which "creates a false impression as to its source, authorization or approval."

21. Defendants' letter falsely, deceptively or misleadingly represents that Gregg Morris, Esq., an attorney, had authored the letter.

22. In reality, Gregg Morris, Esquire was not involved in the collection of Ms. Taylor's debt. Mr. Morris did not author, sign or personally direct the sending of Ms. Taylor's letter. Defendant has been sued prior to the instant case for the identical violation in the case of Haggerty v. Patenuade and Felix,. Defendant admitted in that case to the use of facsimile signatures. Copy of the complaint and answer attached as Exhibit A.

FAIR DEBT COLLECTION PRACTICES ACT

23. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

24. Defendants violated the FDCPA by creating a “false impression as to its source, authorization, or approval” in violation of 15 U.S.C. §1692e(9).

25. Defendants violated the FDCPA by making false, deceptive and misleading statements and representations in connection with the collection of this account in violation of 15 U.S.C. §§1692e and 1692e(10).

26. Defendants violated the FDCPA by falsely representing that a communication was from an attorney in violation of 15 U.S.C. §1692e(3).

WHEREFORE, Plaintiff Kathleen Taylor demands judgment against Defendants for:

- (a) Damages;
- (b) Attorney’s fees and costs; and
- (c) Such other and further relief as the Court shall deem just and proper.

V. DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully submitted,

March 11, 2013

BRIAN J. SMITH AND ASSOCIATES, P.C.

/S/ BRIAN J. SMITH

BY:

BRIAN J. SMITH, ESQUIRE

140 E. Butler Avenue

Ambler, PA 19002

(215) 659-8700

LAW OFFICES OF

PATENAUE & FELIX, A.P.C.

A PROFESSIONAL LAW CORPORATION

4545 MURPHY CANYON RD., 3RD FL
SAN DIEGO, CALIFORNIA 92123
TEL (858) 244-7800 (800) 832-7675
FAX (858) 836-0318

213 EAST MAIN STREET
CARNEGIE, PENNSYLVANIA 15106
TEL (412) 428-7675 (866) 772-7675
FAX (412) 423-7679

1771 EAST FLAMINGO RD., STE. 112A
LAS VEGAS, NEVADA 89119
TEL (702) 552-2032 (800) 857-3082
FAX (702) 593-6285

521 SW 5th AVENUE, STE. 1210
PORTLAND, OREGON 97204
TEL (503) 208-2676 (800) 832-7675

2200 6th AVENUE, STE. 790
SEATTLE, WASHINGTON 98121
TEL (206) 441-4065 (800) 832-7675
FAX (206) 441-5475

March 12, 2012

550408601301

KATHLEEN TAYLOR
2105 GEOFFREY DR
WILLOW GROVE PA 19090-2219

RE: Our Client: GE CAPITAL RETAIL BANK (7502-3)
Issued as:
Account Number: XXXXXXXXXXXXX4804
Our File Number: 12-12563
Balance Due: \$6,304.20

Dear Kathleen Taylor:

Please be advised that the above-referenced debt has been assigned to this firm to initiate collection efforts regarding your delinquent outstanding balance to our client. If you wish to eliminate further collection action, please contact us at (866) 772-7675.


Unless you notify this office within THIRTY (30) days of receiving this notice that you dispute the validity of this debt, or any portion thereof, this office will assume this debt is valid.

If you notify this office in writing within THIRTY (30) days of receiving this notice that this debt, or any portion thereof, is disputed, this office will obtain verification of the debt, or a copy of a judgment against you, and mail you a copy of such verification or judgment. Further, if you make a written request upon this office within THIRTY (30) days of receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

Very truly yours,

LAW OFFICE OF PATENAUE & FELIX



GREGG L. MORRIS, ESQ.

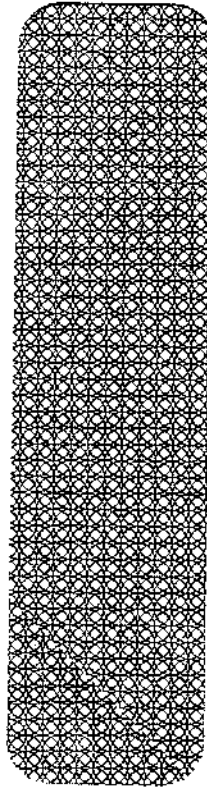
THIS COMMUNICATION IS FROM A DEBT COLLECTOR

PATENAUDE & FELIX, A.P.C.

A PROFESSIONAL LAW CORPORATION

**4545 MURPHY CANYON ROAD, THIRD FLOOR
SAN DIEGO, CA 92123**

RETURN SERVICE REQUESTED



PERSONAL AND CONFIDENTIAL

BSBENMB 13030

